

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

JEFFREY WEISEN, <p style="text-align: center;">Plaintiff,</p> <p>v.</p> HOME DEPOT U.S.A., INC., d/b/a Home Depot, and Jacksonville Realty, LLC <p style="text-align: center;">Defendants,</p>	Case No. <p style="text-align: center;">NOTICE OF REMOVAL OF ACTION PURSUANT TO 28 U.S.C. §§ 1331 AND 1441(c) (FEDERAL QUESTION)</p>
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TO: CLERK OF THE UNITED STATES DISTRICT COURT, DISTRICT OF MINNESOTA, PLAINTIFF AND HIS ATTORNEY OF RECORD

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. sections 1331, 1441, and 1446, Defendant Home Depot U.S.A., Inc. (“Defendant”) by and through its attorneys, hereby removes to the United States District Court for the District of Minnesota the above-captioned matter of *Jeffrey Weisen v Home Depot U.S.A., Inc., d/b/a Home Depot, and Jacksonville Realty, LLC*, which is currently pending in the State of Minnesota District Court, Fourth Judicial District for the County of Hennepin (hereinafter the “State Court Action”). As set forth below, removal is proper under federal question jurisdiction.

I. SERVICE OF THE COMPLAINT

1. On November 2, 2020, Plaintiff Jeffrey Weisen (“Plaintiff”) served an unfiled Summons and Complaint on Defendant Home Depot for the State of Minnesota District Court, Second Judicial District for the County of Ramsey, entitled *Jeffrey Weisen v Home Depot U.S.A., Inc., d/b/a Home Depot, and Jacksonville Realty, LLC*.

2. The Complaint asserts violations of the Americans with Disabilities Act (“ADA”).

II. TIMELINESS OF REMOVAL

3. Defendant was served with a copy of the Summons and Complaint on November 2, 2020. Accordingly, this Notice of Removal is timely as it is being filed within thirty days of service. *See* 28 U.S.C. § 1446(b)(2)(A). Attached as Exhibit A to this Notice of Removal are true and correct copies of all of the pleadings, processes and orders that have been served upon Defendant Home Depot. Defendant has answered the Complaint by service of its Answer on November 23, 2020. Defendant is unaware of whether Defendant Jacksonville Realty has been served, replied, or retained counsel on this matter.

III. REMOVAL JURISDICTION BASED ON FEDERAL QUESTION

4. This Court has original jurisdiction over this action pursuant to 28 U.S.C. section 1331 because the Complaint poses a federal question. Regardless of whether a Complaint pleads only state causes of action, a claim can invoke federal question jurisdiction if it raises a federal issue of law. *Grable & Sons Metal Prods. v. Darue Eng'g & Mfg.*, 545 U.S. 308, 312-14 (2005). The U.S. Supreme Court has “recognized for nearly 100 years that in certain cases federal-question jurisdiction will lie over state-law claims that implicate significant federal issues.” *Id.* at 312. “The doctrine captures the commonsense notion that a federal court ought to be able to hear claims recognized under state law that nonetheless turn on substantial questions of federal law, and thus justify resort to the experience, solicitude, and hope of uniformity that a federal forum offers on federal issues.” *Id.*

5. Plaintiff’s lawsuit is based exclusively on alleged violations of the ADA, 42 U.S.C. § 12181, et seq. Based on Plaintiff’s own allegations, an examination of liability under the ADA is necessary to adjudicate his claims. Therefore, his lawsuit raises a question of federal law, rendering removal proper.

IV. VENUE

6. Venue is proper in the District of Minnesota pursuant to 28 U.S.C. § 1441(a), 1446(i) and 84(c), because the county in which the State Court Action is pending is found within this District.

V. NOTICE TO PLAINTIFF

7. Contemporaneously with the filing of this Notice of Removal in the United States District Court for the District of Minnesota, written notice of such filing will be served on Plaintiff's counsel of record.

WHEREFORE, Defendant requests that the State Court Action pending before the District Court of the State of Minnesota for the County of Ramsey be removed to the United States District Court for the District of Minnesota.

Dated: November 25, 2020.

**HANSEN, DORDELL, BRADT, ODLAUG
& BRADT, L.L.L.P.**

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**ATTORNEYS FOR DEFENDANT HOME
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Motion for *Pro Hac Vice* admission filed